

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH

(Special Original Jurisdiction)

PRESENT

THE HON'BLE THE
CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.19321 OF 2008

DATED: 19-02-2015

Between:

A.V. Papayya Sastry (died) and others

.. Petitioners

And

The State of A.P., Revenue (UCI)

Department, rep. by its Principal

Secretary and others

.. Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.19321 of 2008

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ORDER: (per Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This writ petition was filed for issuance of a writ of mandamus directing respondents 1 and 2 to issue a notification under Section 4(1) of the Land Acquisition Act and to determine the compensation payable for the land of

Ac.18.39 cents in Sy.Nos.3/1, 3/2 and 4 of Kancheralapalem Village of Visakhapatnam Urban Agglomeration, Visakhapatnam or, in the alternative, to deliver back possession of the said property to the petitioners by declaring the letter dated 31.07.2008 of the Special Officer-cum-Competent Authority, Urban Land Ceiling, Visakhapatnam, as illegal, inoperative and contrary to the provisions of Urban Land Ceiling Act 33 of 1976 and pass further orders.

So far as the second limb of the prayer is concerned, we have no hesitation to hold that the pending action of the Special Officer, namely, the third respondent herein has become null and void in view of the repeal of the Urban Land (Ceiling and Regulation) Act, 1976 and abatement of all the proceedings under the said Act under the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Accordingly, we hold so. Therefore, the land which was covered under the Urban Land (Ceiling and Regulation) Act, 1976 must go back to the petitioners as holders of the land. We however clarify that we have not adjudicated the title of the petitioners.

Now, so far as the first limb of the prayer for a direction upon the first and second respondents to issue a notification under Section 4(1) of the Land Acquisition Act is concerned, in view of the possession having been taken by the Visakhapatnam Port Trust, we cannot give any mandate upon the respondents to initiate land acquisition proceedings, as it is the power of eminent domain of the State and its officials to initiate proceedings under the Land Acquisition Act, 1894. No writ of mandamus can be issued to exercise such power. It is for the State to take action if so minded. If any action can be taken, it will be open to the State to take such action in accordance with law, if not, then the grievance of the petitioners with regard to possession of the land having been taken by the Visakhapatnam Port Trust authority can be redressed by the appropriate law of the land.

Keeping open everything, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

19-02-2015

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THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
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WRIT PETITION NO.19321 of 2008

(Order of the Division Bench delivered by Hon'ble
The Chief Justice Sri Kalyan Jyoti Sengupta)

19-02-2015